Calendar No. 645

97TH CONGRESS, 2d Session } SENATE { REPORT No. 97-453

PROVIDING FOR REINSTATEMENT AND VALIDATION OF UNITED STATES OIL AND GAS LEASES NUMBERED NM 25447 AND NM 25452 ACQ

MAY 28, 1982.—Ordered to be printed
Filed under authority of the order of the Senate of May 12 (legislative day, May 11), 1982

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1941]

The Committee on Energy and Natural Resources, to which was referred the bill S. 1941 to provide for the reinstatement and validation of United States oil and gas leases numbered NM 25447 and NM 25452, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

1. Page 2, line 4, strike the words "oil and gas" and insert in lieu thereof the words "oil or gas".
2. Page 2, line 3, strike the word "expired" and insert in lieu thereof the word "terminated".

PURPOSE

The purpose of S. 1941 is to provide for the reinstatement and validation of United States oil and gas leases numbered NM 25447 and NM 25452.

BACKGROUND AND NEED

The bill would reinstate two competitive oil and gas leases of the Hixon Development Company which were automatically terminated under section 31 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188). This section provides that an oil and gas lease shall be automatically terminated in the event the lessee fails to pay the annual rental amount on or before the anniversary date of the lease, with the possibility of reinstatement under certain circumstances if full payment is made within 20 days after the anniversary date.

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The Congress in 1954 enacted Public Law 83–555, which amended the Mineral Lands Leasing Act of 1920 to provide for the automatic termination of a federal oil and gas lease in those instances where the lessee failed to pay the lease rental amount on or before the anniversary date of the lease. The law provided no discretion to the Secretary of the Interior to reinstate a lease. Implementation of the law resulted in the termination of a substantial number of oil and gas leases for late or incorrect rental payments, which led to the introduction of numerous private and public relief bills seeking reinstatement.

In 1970 Congress enacted Public Law 91–245 to reduce the number of public and private relief bills being introduced in Congress by amending the Mineral Lands Leasing Act to provide the Secretary with limited authority to reinstate oil and gas leases automatically terminated by Section 31 of the Act (30 U.S.C. 188). The Secretary under Public Law 91–245 was given discretion to reinstate any lease terminated for failure to pay rent when the full rental amount is paid within 20 days after the anniversary date if the failure to pay on or before the anniversary date was either justifiable or not due to lack of diligence by the lessee (30 U.S.C. 188). In enacting Public Law 91–245, the Congress recognized that the limited discretion given to the Secretary would not provide relief in all deserving cases, and contemplated that private legislation would continue to be necessary in some instances. (see H. Rept. 91–1005, April 14, 1970).

Federal oil and gas leases numbered NM 25447 and NM 25452 covering 599.15 acres in San Juan County, New Mexico were competitive leases issued on July 1, 1975 for a primary term of 5 years. A two year extension to the lease was available as provided by the Mineral Lands Leasing Act (30 U.S.C. 226), if drilling was commenced prior to the end of the primary term and diligently prosecuted and the annual rental payment was timely paid. The term of the lease would also be extended for as long as oil or gas was produced.

Drilling on both leases began prior to the end of the primary term of both leases, and was diligently pursued thereafter. On August 4, 1980 the U.S. Geological Survey notified the New Mexico State Office of the Bureau of Land Management that both leases qualified for a two-year extension inasmuch as there was diligent drilling prior to the expiration date of June 30, 1980.

However, no extensions were granted because the lessee, Hixon Development Company, due to a clerical oversight, had failed to pay the $640.00 rental on NM 25447 and the $560.00 rental on NM 25452 that were due on July 1, 1980. The lessee was notified of that on August 15, 1980 of the failure to pay the rental due:

Since the date of lease issuance, two wells were drilled on lease NM 25447. The Federal 19–1 well was drilled and plugged in April 1980. The Federal 19–4 well was being tested and awaited a completion rig when notice of termination was received. The Federal 29–4 well was drilled on lease NM 25452. This well attempted to establish shallow gas production, but was plugged and abandoned. When the termination notice was received, the lessee was in the process of selecting a site for the drilling of a new well.

Costs involved in drilling the Federal 19–1 well were $16,100. At the time operations were discontinued on the Federal 19–4 well drill-

ing costs incurred had reached $34,400. In addition to the actual drilling costs on lease NM–25447 the lease bonus was $11,200 and the annual rentals were $3,200 for the primary term of the lease. Lessee's costs in drilling and abandoning the 29–4 well were $20,500 in addition to the lease bonus of $2,892 and annual rentals of $2,800. Lessee's total investment in leases NM–25447 and NM–25452 is $91,100.

Estimates of the recoverable reserves for the lease NM 25447 are 72,200 barrels of oil and 150,000 MCF of natural gas. For the lease NM–25452 estimates of the recoverable reserves are 63,200 barrels of oil.

The Committee is of the opinion that the reinstatement of the oil and gas leases is justified for two reasons. First, the failure to pay the annual rental was inadvertent, resulting from clerical oversight. Second, unless the lease is reinstated, the Company will be unable to realize the full benefits of its $91,000 investment. In light of these considerations, the Committee believes it would be inequitable not to allow the reinstatement of the oil and gas leases for failure to pay the combined annual rental of $1,200.00.

Legislative History

S. 1941 was introduced on December 11, 1981, by Mr. Tower. A hearing was held by the Subcommittee on Energy and Mineral Resources on May 7, 1982. The bill was considered in an open business session on May 12 and 13, 1982.

Committee Recommendation and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on May 12 and 13, 1982, by a unanimous vote of a quorum present recommended that the Senate pass S. 1941 if amended, as described herein.

The rollcall vote on reporting the measure was 18 yeas and 0 nays as follows:

YEAS—18	NAYS—0
McClure	
Hatfield	
Weicker [1]	
Domenici [1]	
Wallop	
Warner	
Humphrey	
Murkowski [1]	
Nickles	
East [1]	
Heinz [1]	
Jackson [1]	
Johnston	
Bumpers [1]	
Ford	
Matsunaga	
Melcher	
Bradley	

[1] Indicates voted by proxy.

Committee Comments

Both amendments adopted by the Committee are technical.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1941. The bill is not a regulatory measure in the sense of imposing Government standards or significant economic responsibilities on private individuals or business. No personal information will be collected in administering the provisions of the bill. Therefore, it would not impact on personal privacy. Little, if any, additional paperwork would result from the enactment of S. 1941.

Cost and Budgetary Considerations

This measure is in the nature of private relief, however, the Committee feels that no significant cost or budgetary impact will result from its enactment.

Executive Communications

The pertinent legislative reports and communications received by the Committee from the Department of the Interior setting forth Executive agency recommendations relating to S. 1941 are set forth below:

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C.

Hon. James A. McClure,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Your Committee has requested the views of this Department on S. 1941, a bill "To provide for the reinstatement and validation of United States oil and gas leases numbered NM 25447 and NM 25452 Acq."

We would not object to enactment of the bill if the Congress finds that the facts of the case warrant the special relief that the bill would grant.

S. 1941 would reinstate and validate oil and gas leases numbered NM 25447 and NM 25452 of the Hixon Development Company covering 599.15 acres in San Juan County, New Mexico. The terms of the leases would be extended for two years from the date on which the lessee received notice that the leases expired for nonpayment of rent, and so long thereafter as oil and gas is produced in paying quantities.

The oil and gas leases referred to in S. 1941 were competitive leases with an effective date of July 1, 1975, for a period of 5 years and so long thereafter as oil or gas is produced in paying quantities. The U.S. Geological Survey (USGS), on August 4, 1980, notified the New Mexico State Office of the Bureau of Land Management that both

leases qualified for a 2 year extension inasmuch as there was diligent drilling prior to the expiration date of June 30, 1980.

No extensions were granted because the lessee, Hixon Development Company, failed to pay the rental due on July 1, 1980. However, Hixon was diligently drilling at considerable expense prior to the lease expiration date and had duly notified USGS of that fact, and was acting in a manner customary for similar operations on State or private leases in the area.

If this bill is enacted, it may provide a greater incentive to obtain drilling on the lease than might be the case with a new five year lease and another lessee.

On page 2, line 4, the words "oil and gas" should be changed to "oil or gas".

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DAVID C. RUSSELL,
Acting Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 1941, as reported.

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Calendar No. 646

97TH CONGRESS
2d Session

SENATE

REPORT
No. 97-454

EXTENDING THE LEASE TERMS OF UNITED STATES OIL AND GAS LEASES NUMBERED W66245, W66246, W66247, AND W62250

MAY 28, 1982.—Ordered to be printed
Filed under authority of the order of the Senate of May 12 (legislative day, May 11), 1982

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2146]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2146) to extend the lease terms of Federal oil and gas leases, W66245, W66246, W66247, and W62250 having considered the same, reports favorably thereon with amendments to the text and and an amendment to the title and recommends that the bill as amended do pass.

The amendments are as follows:

1. Page 1, line 4, strike the words "oil or gas" and insert in lieu thereof the words "oil and gas".
2. Page 1, line 6, strike "W62250" and insert "W66250".
3. Page 2, line 4, strike the words "oil and gas" and insert in lieu thereof the words "oil or gas".
4. Page 2, line 8, strike "leases." and insert in lieu thereof

leases: And provided further, that the Secretary of the Interior is authorized, at the request of the Secretary of Agriculture, to modify the lease stipulations to insure the protection of environmentally sensitive areas.

5. Amend the title so as to read

To extend the lease terms of Federal oil and gas leases, W66245, W66246, W66247, and W66250.

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PURPOSE

The purpose of S. 2146, as reported, is to provide for the extension of lease terms of United States oil and gas leases numbered W66245, W66246, W66247, and W66250.

BACKGROUND AND NEED

The bill would extend the lease terms of four non-competitive federal oil and gas leases of Toledo Mining Company. The leases were issued under section 17 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 226) and were for a primary term of 10 years ending in 1979.

In 1978 Toledo entered into negotiations with a second company to combine portions of their various leases into a proposed drilling unit, called the Deadman Unit.

The Deadman Unit was approved by the Secretary of the Interior on November 1, 1978, and the non-unitized portions of the Toledo leases were segregated out of the Deadman Unit by the Bureau of Land Management. The segregated portions were given new lease numbers (W66245, W66246, W66247, and W66250). The Toledo leases, being segregated leases, were extended two years from the date of segregation and must show production (within the segregated leases) in paying quantities within the two-year period or otherwise the segregated Toledo leases would expire on November 17, 1980.

Toledo acting on information from its earlier operators that its interest was protected took no action to commence drilling activities. However, in June 1980, when the third operator informed Toledo that its leases would expire on November 17, 1980 unless by that date they were drilling and producing paying quantities of oil and gas, Toledo began its drilling plan.

On October 22, 1980, an acceptable application to drill was submitted to the U.S. Geological Survey. However, the U.S. Forest Service, the surface management agency indicated that it would take two months under optimum conditions to properly process the application which would be after the leases' expiration date.

On November 3, 1980 the Forest Service advised the Department of the Interior because of the remote location of the leases and the onset of winter, it would be unable to perform the necessary field work before the summer of 1981.

On October 28, 1980, Toledo requested an Administrative suspension of the lease pursuant to 43 CFR 3103.3–8 (1979), in order for the required environmental work preceding the drilling to be done. The Bureau of Land Management, on March 24, 1981, granted a suspension of lease terms and rental payments for the four leases.

In accordance with the regulations, the suspension was effective October 1, 1980 but terminates on the first day of the month in which the lessees are (1) notified of the government's decision not to approve the application for the initial unit drilling or (2) permission for drilling is granted and actual drilling is commenced. Once drilling begins, and the suspension ends, Toledo will have remaining only the time left in the leases as computed prior to the effective date of

the suspension, from October 1, 1980 to November 17, 1980, 48 days in which to strike paying quantities.

The Toledo drilling plan contemplates drilling to 18,000 feet. It appears that this drilling activity would not strike paying quantities in 48 days.

The Committee is of the opinion that the extension of the terms of the leases is justified for two reasons. First, the late filing of a drilling plan was inadvertent on Toledo's part as it acted in good faith on incorrect information. When the Company learned the truth it took immediate steps to comply with the terms of the leases. Second, forty-eight days is viewed as too short of a time to successfully completed the contemplated drilling plan. In light of these considerations the Committee believes it would be equitable to allow the leases' terms to be extended for two years after the effective date of this bill or the termination of the period of suspension, whichever comes later, and so long thereafter as oil or gas is produced in paying quantities.

LEGISLATIVE HISTORY

S. 2146 was introduced on March 1, 1982 by Mr. Garn (for himself and Mr. Hatch). A hearing was held by the Subcommittee on Energy and Mineral Resources on May 7, 1982. The bill was considered in an open business session on May 12 and 13, 1982.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on May 13, 1982, by a unanimous vote of a quorum present recommended that the Senate pass S. 2146 if amended, as described herein.

The rollcall vote on reporting the measure was 18 yeas and 0 nays as follows:

YEAS—18	NAYS—0
McClure	
Hatfield	
Weicker [1]	
Domenici [1]	
Wallop	
Warner	
Humphrey	
Murkowski [1]	
Nickles	
East [1]	
Heinz [1]	
Jackson [1]	
Johnston	
Bumpers [1]	
Ford	
Matsunaga	
Melcher	
Bradley	

*Indicates voted by proxy.

COMMITTEE AMENDMENTS

Amendments 1–3 and 5 are technical amendments.

Amendment 4 allows the Secretary of the Interior, upon request of the Secretary of Agriculture, to issue, if necessary, stipulations, which will protect environmentally sensitive areas.

COST AND BUDGETARY CONSIDERATIONS

This measure is in the nature of private relief, however, the Committee feels that no significant cost or budgetary impact will result from its enactment.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2146. The bill is not a regualtory measure in the sense of imposing Government standards or significant economic responsibilities on private individuals or businesc. No personal information will be collected in administering the provisions of the bill. Therefore, it would not impact on personal privacy. Little, if any, additional paperwork would result from the enactment of S. 2140.

EXECUTIVE COMMUNICATIONS

Although, S. 2146 referred to the Department of the Interior and the Office of Management and Budget on March 18, 1982, for comment, no legislative reports were received. However, the following is the statement submitted by the Department of the Interior at the Subcommittee hearing on May 7, 1982, in which no objection was raised to the enactment of S. 2146:

STATEMENT OF DAVID C. RUSSELL, DEPUTY ASSISTANT SECRETARY, LAND AND WATER RESOURCES, DEPARTMENT OF THE INTERIOR

I am pleased to appear here this morning to discuss S. 2146.

S. 2146 would direct the Secretary of the Interior to extend the term of four oil and gas leases, which comprise the "Toledo Unit" within the Bridger-Teton National Forest in Lincoln County, Wyoming. The leases are due to expire 48 days after termination of the current Bureau of Land Management suspension of lease terms and rental payments. S. 2146 would provide for an extension for two years from either the date of its enactment of the termination of the BLM suspension and for so long thereafter as oil and gas is produced in paying quantities.

We would have no objection to enactment of the bill if it is amended to meet our concerns.

Each of the leases identified in the bill would normally have expired on November 17, 1980 unless a well on the unit was capable of producing in paying quantities.

On October 22, 1980, an acceptable application to drill was submitted to the United States Geological Survey. However, the U.S. Forest Service, the surface management agency, stated that the public scoping process, field review and preparation of an environmental analysis would require, at a minimum, more than two months under optimum conditions. On November 3, 1980, the Forest Service also advised that, given the remoteness and high altitude of the location and the onset of winter, it would be unable to perform the necessary field work before the summer of 1981. More recently, the Forest Service advised the Bureau of Land Management that the work was not accomplished because it was known that the four leases were due to expire.

As a result of the information received from the Forest Service in November 1980, the Bureau of Land Management, on March 24, 1981, granted a suspension of lease terms and rental payments for the four leases. At the time the suspension was granted, each lease had 48 days left in the term. Therefore, when the suspension is terminated, 48 days will be left on the lease before it expires.

If a drilling permit is issued and drilling operations are commenced, the lessees will have only 48 days within which to have a well capable of producing in paying quantities.

We believe that 48 days may be too short a time to accomplish what is to be done if the leases are to be continued by virtue of production. Therefore, we would have no objection to enactment of this bill provided that it is amended to condition any extension of the leases on the granting of a permit to drill, and to authorize the Secretary of the Interior to insert additional restrictive stipulations in the lease.

We have been advised by the Supervisor of the Bridger-Teton National Forest that recent forest land management planning efforts have resulted in a determination that all of the leases within the Toledo Unit should be recommended for no surface occupancy, because of the impact that surface disturbance could have on certain environmentally sensitive areas. The Forest Service has also advised that it would prefer that new leases be issued, rather than existing leases extended. This would give the Forest Service an opportunity to include more restrictive stipulations in the new leases than are contained in the present leases and thus provide more protection for sensitive areas.

Since the Forest Service has not suggested that oil and gas activity should not continue but merely be controlled where necessary, we recommend that the bill be amended to authorize the Secretary of the Interior, at the request of the Secretary of Agriculture, to modify the lease stipulations to insure the protection of environmentally sensitive areas.

Finally, we note three technical amendments that are required: lease "W62250" should be "W66250"; the phrase "oil or gas" in line 4, page 1, should be "oil and gas"; and the phrase "oil and gas" in line 4, page 2, should be "oil or gas."

That concludes my statement, I will be happy to answer any questions on the bill.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 2146, as reported.

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